



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET - SUITE 300

DENVER, CO 80202-2466

<http://www.epa.gov/region08>

DOCKET NO.: CWA-08-2003-0084

IN THE MATTER OF:

DAVISON'S EXXON SERVICE

Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. § 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

August 1, 2003
DATE

SIGNED
Alfred C. Smith
Regional Judicial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

In the Matter of:)	
)	
Davison's Exxon Service)	EXPEDITED CONSENT AGREEMENT
)	
Respondent.)	DOCKET NO.: CWA-08-2003-0084

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Davison's Exxon Service, by their undersigned representatives, hereby settle the civil cause of action arising out of violations of the Spill Prevention Control and Countermeasures (SPCC) Plan noted in your 308 Information Request response dated January 2, 2003, and agree as follows:

The Clean Water Act (the Act), as amended, 33 U.S.C. § 1321(b)(6), authorizes the Administrator of EPA to assess administrative penalties against any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates a service station and bulk plant, Davison's Exxon Service, located at 410 South 1st Street, Hamilton, Montana.

Respondent admits its facility is subject to the SPCC regulations.

Respondent admits it failed to prepare and implement an SPCC Plan for its Davison's Exxon Service as required by Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j) in accordance with 40 C.F.R. part 112. Respondent agrees to prepare and submit to the person named below a facility SPCC Plan in accordance with 40 C.F.R. part 112 within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$1,000.00 which, shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this agreement, to:

Jane Nakad
Technical Enforcement Program (8ENF-T)
USEPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION VIII,

Office of Enforcement Compliance and Environmental Justice, Complainant.

By : **Timothy Osag for/**
Elisabeth Evans, Director
Technical Enforcement Program

8/1/03
Date

Davison's Exxon Service, Respondent.

By: **Jack B. Davison**
30 July 2003

Name: **SIGNED**
Title: **Manager**

Date

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter of **DAVISON'S EXXON SERVICE, DOCKET NO.: CWA-08-2003-0084** was filed with the Regional Hearing Clerk on August 1, 2003.

Further, the undersigned certifies that a true and correct copy of the document were delivered to Michael T. Risner, Senior Enforcement Attorney, U.S. EPA - Region VIII, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on August 1, 2003 to:

Jack Davison
Davison's Exxon Service
410 South 1st St.
Hamilton, MT 59840-2809

Commander
Finance Center (OGR)
U.S. Coast Guard
1430 A Kristina Way
Chesapeake, VA 23326

August 1, 2003

SIGNED

Tina Artemis
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
AUGUST 1, 2003.**